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and L&W Supply Corporation*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

JUAN L. MOZQUEDA-LEON,  
Plaintiff,

vs.

AMERICAN BUILDERS & CONTRACTORS  
SUPPLY CO., INC. a foreign corporation;  
L&W SUPPLY CORPORATION, a foreign  
corporation; and, DOE INDIVIDUALS I  
through X; and ROE BUSINESS ENTITIES I  
through X,  
Defendants.

Case No. 2:22-cv-00594-RFB-DJA

**STIPULATION AND ORDER FOR  
EXTENSION OF DISCOVERY  
DEADLINES  
(THIRD REQUEST)**

Defendants American Builders & Contractors Supply Co., Inc. (“ABC”) and L& W Supply Corporation (“L&W”) (collectively “Defendants”) and Plaintiff Juan L. Mozqueda-Leon (“Plaintiff”), by and through their respective undersigned counsel, hereby submit the following Stipulation and Order for Extension of Discovery Deadlines (Third Request), pursuant to Federal Rule of Civil Procedure 26(f) and Local Rule 6-1, 7-1 and 26-1(e).

As detailed further herein, the additional time is necessary to allow for the completion of written discovery and depositions. The current discovery period ends January 28, 2023 (a Saturday). The Parties believe an extension of the discovery period by one hundred-twenty days (120) to **Tuesday, May 30, 2023**, will provide adequate time to complete the remaining discovery.

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This is the third request for an extension of these deadlines. This request is made in good faith and is not for the purpose of delay. Further, while the Parties are certainly mindful of the Court's interest in the expeditious completion of discovery, the Parties have been conducting discovery and there is good cause for the extension sought herein. Pursuant to LR 26-4, the Parties provide the following information to the court in connection with their request for an extension of the discovery deadlines:

**I. Procedural History**

Plaintiff filed his Complaint in the Eighth Judicial District Court on March 12, 2022. Prior to service of the lawsuit, Defendants filed their Notice of Removal of Action Pursuant to 28 U.S.C. § 1331 on April 8, 2022 (ECF No. 1). Defendants filed their Answer on April 15, 2022. (ECF No. 7.) On May 18, 2022, the parties held the Rule 26(f) conference. (ECF No. 16.) On June 21, 2022, at 10:30 AM, the Parties participated in an Early Neutral Evaluation ("ENE"). The Parties were unable to reach settlement at the ENE. On August 15, 2022, Plaintiff's counsel notified Defense counsel of a medical emergency she was experiencing and the need to vacate two forthcoming depositions by Plaintiff and need to place the case in a stay. (ECF No. 23) The case was stayed for 30 days. (Id.) A second request to stay the case for 45-days (through November 6, 2022 (a Sunday)) was sought and approved by the Court. (ECF No 26.)

**II. Discovery Completed to Date**

Both parties served their Initial Disclosures on June 1, 2022. On June 10, 2022, November 18, 2022, November 29, 2022, and December 11, 2022, Plaintiff supplemented his Initial Disclosures. On July 5, 2022, August 5, 2022, August 12, 2022, and August 19, 2022, Defendants supplemented their Initial Disclosures.

On May 19, 2022, Plaintiff propounded written discovery upon Defendants to which Defendants responded on July 5, 2022. On July 20, 2022, Plaintiff served his Second Set of Request for Production to which Defendants responded on November 7, 2022. On July 29, 2022, the parties held a meet and confer regarding L&W's written discovery responses. On August 12, 2022, the parties continued the meet and confer regarding Defendant L&W's written discovery responses. On December 13, 2022, Plaintiff served his Second Set of Requests for Admission on

1 Defendant L&W.

2 On July 20, 2022, Defendant L&W propounded written discovery on Plaintiff. Plaintiff  
3 responded to Defendants' First Set of Interrogatories and Requests for Admission on November 18,  
4 2022, additionally providing responsive documents to Defendants' First Set of Request for  
5 Documents. Plaintiff served the formal written responses to Defendants' First set of Request for  
6 Documents on December 12, 2022.

7 Defendants served a Subpoena Duces Tecum to the Nevada Department of Employment  
8 Training and Rehabilitation ("DETR") on July 19, 2022. DETR's subpoena response was produced  
9 to Plaintiff on August 12, 2022. On November 19, 2022, Defendants served multiple Subpoenas  
10 Duces Tecum upon Plaintiff's medical providers. The responsive documents are due on December  
11 16, 2022.

12 On November 29, 2022, Defendants served a Notice of Intent to Serve a Subpoena Duces  
13 Tecum on his current employer, J&J Enterprises Services, Inc. On December 4, 2022, Plaintiff  
14 filed an Emergency Motion for Protective Order to Modify Subpoena to be Served on Plaintiff's  
15 Current Employer on Wednesday, December 7, 2022. (ECF No. 27.) The Court ordered briefing in  
16 the normal course and stayed service of the subpoena pending determination by the Court. (ECF  
17 No. 28. Defendants' response to Plaintiff's Motion is due on December 19, 2022.

18 **III. Remaining Discovery to be Completed**

19 All depositions of parties and percipient witnesses have yet to be conducted. The  
20 depositions of Penny Fiore and Rachel Sterk were scheduled to be held on August 26, 2022, and  
21 August 29, 2022, respectively and were vacated due to Plaintiff's counsel medical issue. The  
22 depositions of Ms. Fiore and Ms. Sterk, are in the process of being rescheduled. The deposition of  
23 Gary Barnson is scheduled for December 20, 2022. Plaintiff anticipates the need for an additional  
24 seven (7) depositions, including under Rule 30(b). Additionally, the parties must continue the meet  
25 and confer efforts on Defendant L&W discovery responses that begun two weeks before the case  
26 was stayed and begin the meet and confer process on Defendant ABC's discovery responses.  
27 Depending on responses, and meet and confer efforts, additional written discovery may be  
28 necessary.

**IV. Reason Discovery Cannot be Completed Within the Original Deadline**

Ms. Neal is presently working in a reduced capacity based on her temporary disability. Responsive documents to Defendants' Subpoenas Duces Tecum are required to conduct Plaintiff's deposition in an efficient manner. The outcome of Plaintiff's Motion for Protective Order will also impact Plaintiff's deposition. For example, Plaintiff's Emergency Motion for Protective Order to Modify Subpoena will not be fully briefed until December 26, 2022, assuming no extensions are requested. The Court has stayed service of Defendants' Subpoena Duces Tecum to J&J Enterprises Services, Inc. until this matter is resolved. By the time this issue is resolved, there will likely not be sufficient time to serve the subpoena, receive the documents responsive to the subpoena, and produce those documents to Plaintiff prior to taking Plaintiff's deposition before the current discovery deadline of January 27, 2022.

To allow time to receive the responses to Defendants' subpoenas and accommodate scheduling conflicts through the holidays, and in consideration of Ms. Neal's temporary disability, the parties have agreed that discovery should be extended for one hundred-twenty days (120) days.

**V. Revised Proposed Discovery Plan**

All discovery in this case has and will continue to be conducted in accordance with the Federal Rules of Civil Procedure and applicable Local Rules of this District Court. The parties propose to the court the following deadlines:

**a. Discovery Cut-off Date:** The discovery cut-off deadline shall be **Tuesday, May 30, 2023.**

**b. Dispositive Motions:** The parties shall file dispositive motions not more than thirty (30) days after the discovery cut-off date and, therefore, not later than **Thursday, June 29, 2023**, as thirty days falls on Saturday.

**c. Pretrial Order:** If no dispositive motions are filed, and unless otherwise ordered by this Court, the Joint Pretrial Order shall be filed no more than thirty (30) days after the date set for filing dispositive motions and, therefore, not later than **Monday, July 31, 2023 (July 29, 2023, is a Saturday.)** In the event a dispositive motion is filed, the date for the filing pretrial order shall be suspended until thirty (30) days after the decision of the dispositive motions or further order of the

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Court.

**d. Fed. R. Civ. P. 26(a)(3) Disclosures:** If no dispositive motions are filed, and unless otherwise ordered by this Court, the parties shall file the disclosures required by Fed. R. Civ. P. 26(a)(3), and any objections thereto, with the Pretrial Order pursuant to Local Rule 26-1(b)(5), not more than thirty (30) days after the date set for filing dispositive motions and, therefore, not later than **Monday, July 31, 2023 (July 29, 2023 is a Saturday.)**

**e. Extension or Modification of the Discovery Plan and Scheduling Order:** In accordance with Local Rule 26-4, any motion or stipulation to extend a deadline set forth in this discovery plan and scheduling order shall be received by the Court no later than twenty-one (21) days before the expiration of the subject deadline.

DATED this 21<sup>st</sup> day of December, 2022.

KEMP & KEMP

/s/ Victoria L. Neal

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DATED this 21<sup>st</sup> day of December, 2022.

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/s/ Elody C. Tignor

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*Defendants American Builders & Contractors  
Supply Co., Inc. and L&W Supply Corporation*

**ORDER**

IT IS SO ORDERED.



UNITED STATES MAGISTRATE JUDGE

December 28, 2022

DATE